

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

UNITED STATES OF AMERICA,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143  
Honorable T.S. Ellis, III  
Hearing: June 11, 2021  
Trial: July 12, 2021

**MEMORANDUM IN SUPPORT OF  
MOTION TO SEAL PORTIONS OF DEFENDANT'S RESPONSE**

**I. INTRODUCTION**

Zackary Ellis Sanders, by counsel, moves this Honorable Court, pursuant to Local Crim. R. 49, for entry of an Order permitting portions of his Response to the government's Reply to his Opposition to the government's Motion to exclude evidence at trial to be filed under seal. Sealing is necessary because portions discuss confidential medical information.

**II. ARGUMENT**

Portions of the response should be sealed because it contains confidential medical information that the public would not, under any other circumstances, be entitled to see. It is true that judicial proceedings are generally open to the public and that there exists, while not a First Amendment right, a common law right of public access to judicial records and documents. *Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429 (4th Cir. 2005) (citing *Balt. Sun Co. v. Goetz*, 886 F.2d 60, 64-65 (4th Cir. 1989)). The presumption of the right of access can be rebutted if countervailing interests heavily outweigh the public interests in access. *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). The party seeking to overcome the presumption bears the burden of showing some significant interest that outweighs the presumption.

*Id.* at 575. Ultimately the decision to seal is a matter best left to the sound discretion of the district court. *Washington Post*, 386 F.3d at 575. With respect to medical records in particular, the Eastern District of Virginia has previously held that such records are entitled to privacy protection and may be filed under seal. *James v. Service Source, Inc.*, 2007 U.S. Dist. LEXIS 86169 at \*12 (Nov. 21, 2007 E.D. Va.).

Counsel will provide the government and this Court separate unredacted versions of Defendant's pleading.

### **III. CONCLUSION**

Defendant respectfully requests that the Court enter an Order providing that portions of Defendant's Response shall be permanently filed under seal.

Respectfully submitted,

ZACKARY ELLIS SANDERS  
By Counsel

Respectfully submitted,

/s/

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*Counsel for Defendant Zackary Ellis Sanders*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served this 11th day of June 2021, on all counsel of record.

/s/ Jonathan Jeffress  
Jonathan Jeffress